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6 UNITED STATES DISTRICT COURT  
7 CENTRAL DISTRICT OF CALIFORNIA  
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10 HORACIO CRUZ AMAYA, also  
11 known as AARON ROJAS,  
12 Petitioner,  
13 v.  
14 L. A. MARTINEZ,  
15 Respondent.  
16

Case No. 2:23-cv-00559-WLH-SSC

ORDER TO SHOW CAUSE WHY  
PETITION FOR WRIT OF  
HABEAS CORPUS SHOULD NOT  
BE DISMISSED

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18 In his petition for habeas corpus, state prisoner Horacio Cruz  
19 Amaya challenges his indeterminate sentence as unconstitutional and  
20 illegal under California law. The Court has reviewed the petition as  
21 required by federal procedure and finds that the state-sentencing errors  
22 alleged do not present a federal question and are thus not cognizable on  
23 habeas review, and further that they plainly lack merit. Petitioner is  
24 ordered to show cause in writing why his petition should not be  
25 dismissed.  
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I

On September 13, 2012, a Los Angeles County Superior Court jury convicted Petitioner<sup>1</sup> of second-degree murder (Cal. Penal Code § 187(a)) and evading an officer causing death (Cal. Veh. Code § 2800.3(b)). (ECF 1 at 25–26.) Petitioner admitted to having served three prior prison terms before this conviction, triggering the sentencing requirements of Section 667.5(b) of the California Penal Code. *People v. Rojas*, No. B245433, 2014 WL 645249, at \*2 (Cal. App. Feb. 20, 2014).<sup>2</sup> On November 1, 2012, Petitioner was sentenced to an aggregate term of 18 years to life in state prison, consisting of an indeterminate 15-years-to-life term for the murder conviction and three consecutive one-year enhancements pursuant to Section 667.5(b). (ECF 1 at 25–27.) On direct appeal, Petitioner challenged only the calculation of his presentence custody credits. *Rojas*, 2014 WL 645249, at \*1.

Approximately ten years after his conviction and sentence, Petitioner unsuccessfully moved in the Los Angeles County Superior Court for a modification of his sentence. (ECF 1 at 9–10, 15–23); *see also* Los Angeles County Superior Court Online Criminal Case Summary, <https://www.lacourt.org/criminalcasesummary/ui/> (agree to disclaimer; then search case number PA06800; select Defendant Aaron

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<sup>1</sup> Petitioner's aliases as found in the record before the Court include: Aaron Rojas, Arron Roias, Amaya Horacio, Horacio Cruz Amaya, Aaron Esqueda Rojas, and Victor Martinez. (ECF 1 at 1, 8–9, 13, 15–16, 23, 25–27, 44–45.)

<sup>2</sup> The Court takes judicial notice of Petitioner's state court records, including the California Court of Appeal's decision on direct review of Petitioner's judgment of conviction and the state courts' docket information. *See* Fed. R. Evid. 201(b); *Porter v. Ollison*, 620 F.3d 952, 955 n.1 (9th Cir. 2010) (taking judicial notice of state court docket and pleading that included as attachment the state court's decision on direct appeal). Further, the Court assumes for purposes of this analysis only that Petitioner's claims are timely and properly exhausted.

1 Esqueda Rojas, General Jurisdiction; select Events; see entries for June  
2 22, 2022 and August 15, 2022) (last visited July 27, 2023). His motion  
3 argued that his indeterminate sentence was unlawful under California  
4 law. (ECF at 15–23.)

5 The California Court of Appeal summarily denied a petition for  
6 writ of mandate challenging the Superior Court’s denial of his  
7 requested sentencing modification. *See* California Appellate Courts  
8 Case Information, <https://appellatecases.courtinfo.ca.gov> (select Second  
9 Appellate District; then search case number B323511) (last visited July  
10 27, 2023). The California Supreme Court summarily denied a petition  
11 for review of the California Court of Appeal’s denial. *Id.* (select  
12 Supreme Court; then search case number S277038) (last visited July  
13 27, 2023).

14 On January 23, 2023, Petitioner filed a Petition for Writ of Habeas  
15 Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254.  
16 (ECF 1.) He states two grounds for relief. First, Petitioner challenges  
17 the “[u]nauthorized Indeterminate Sentence pursuant to [California  
18 Penal Code] § 187(a) of 15 [years] to life based on the fact that the  
19 Indeterminate Sentencing Law was repealed,” and further argues that  
20 “both terms of 15 years to life are two separate and distinct terms that  
21 constitute dual punishment for the same crime in direct violation of  
22 [California Penal Code] § 654.” (*Id.* at 5, 9–13.) This is the same claim  
23 raised in his motion for resentencing before the Superior Court.  
24 Second, and relatedly, Petitioner argues his continued imprisonment  
25 based on an unlawful indeterminate sentence amounts to “[u]nlawful  
26 confinement in direct violation of [California Penal Code] § 236 False  
27 Imprisonment.” (*Id.* at 5, 10, 12.)  
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## II

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires the district court to examine newly filed petitions and to dismiss them where it is plain that a petitioner is not entitled to relief. *Clayton v. Biter*, 868 F.3d 840, 845–46 (9th Cir. 2017). Here, the petition fails for several reasons.

### A

The petition alleges only state-law and no federal-law violations. Federal habeas review is limited to deciding whether a judgment violates the Constitution, laws, or treaties of the United States. *Estelle v. McGuire*, 502 U.S. 62, 68 (1991). Generally, matters relating solely to the interpretation or application of state law, particularly state sentencing law, are not cognizable on federal habeas review. *See id.* at 67–68 (federal habeas relief unavailable for errors of state law); *see also Souch v. Schaivo*, 289 F.3d 616, 623 (9th Cir. 2002) (state court’s alleged misapplication of state sentencing law cannot form the basis of a federal habeas claim); *Rhoades v. Henry*, 611 F.3d 1133, 1142 (9th Cir. 2010) (considering argument that sentencing judge violated state law and finding “violations of state law are not cognizable on federal habeas review”).

To raise a cognizable federal habeas claim based on a purported state sentencing error, a petitioner must show that the error was “so arbitrary or capricious as to constitute an independent due process . . . violation.” *Lewis v. Jeffers*, 497 U.S. 764, 780 (1990); *Christian v. Rhode*, 41 F.3d 461, 469 (9th Cir. 1994) (“Absent a showing of fundamental unfairness, a state court’s misapplication of its own sentencing laws does not justify federal habeas relief.”). Importantly, a habeas petitioner “may not . . . transform a state-law issue into a

1 federal one merely by asserting a violation of due process.” *Langford v.*  
2 *Day*, 110 F.3d 1380, 1389 (9th Cir. 1996).

3 Although Petitioner asserts that his indeterminate sentence is  
4 “unconstitutional,” the petition, like Petitioner’s state-court motion for  
5 modification of sentence, is based entirely on the purported  
6 misapplication of California sentencing laws. (ECF 1 at 5, 9–13, 15–22.)  
7 The petition does not invoke any federal basis for relief and does not  
8 show that any fundamental unfairness occurred based on the state  
9 court’s application of its sentencing laws. Thus, the petition fails to  
10 present a federal question and the claims are not cognizable.

### 11 **B**

12 Even if the Court could find any of Petitioner’s claims cognizable,  
13 his claims are based solely on his misunderstanding of state law.  
14 Contrary to Petitioner’s contention, California Senate Bill 42, also  
15 known as the Uniform Determinate Sentencing Act of 1976, did not  
16 eliminate all indeterminate sentences in California. *See In re Monigold*,  
17 139 Cal. App. 3d 485, 491 (1983) (“[W]ith the original enactment of the  
18 [Uniform Determinate Sentencing Act] the Legislature provided for two  
19 classes of prisoners, those sentenced to determinate terms under [the  
20 determinate sentencing scheme], and those sentenced to indeterminate  
21 terms [for life-sentence crimes] under section 1168.”). Moreover, in  
22 1978, long before Petitioner’s 2012 conviction and sentence for second-  
23 degree murder, Section 190 of the California Penal Code was enacted,  
24 thereby increasing the punishment for second-degree murder “from a  
25 determinate term of five, six or seven years to an indeterminate term of  
26 fifteen years to life.” Cal. Penal Code § 190(a); *Monigold*, 139 Cal. App.  
27 3d at 490 (“By an initiative measure adopted at the November 7, 1978,  
28 General Election, the punishment for second degree murder was



1       **If Petitioner does not file a timely response to this Order to**  
2 **Show Cause, the magistrate judge will recommend that the**  
3 **Court dismiss the petition for failure to prosecute and/or**  
4 **comply with court orders.**

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7 Dated: July 27, 2023

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HONORABLE STEPHANIE S. CHRISTENSEN  
United States Magistrate Judge